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**IN THE  
COURT OF APPEALS OF INDIANA**

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DURAND HUGGINS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A04-0603-CR-111
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Grant W. Hawkins, Judge  
The Honorable Nancy Broyles, Master Commissioner  
Cause No. 49G05-0411-FC-212070

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**March 16, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**KIRSCH, Judge**

Durand Huggins pled guilty to attempted trafficking with an inmate<sup>1</sup> as a Class C felony. The trial court sentenced Huggins to four years with two years to be served in a community corrections program and two years suspended. On appeal, Huggins raises the following restated issue:

Whether his sentence is appropriate in light of his character and the nature of his offense.

We affirm.

### **FACTS AND PROCEDURAL HISTORY**

Based on a tip from a confidential informant, on November 22, 2004, an internal affairs officer advised the warden of Corrections Corporation of America (“CCA”) that a corrections officer, later identified as Huggins, was suspected of dealing illegal substances to inmates and that a delivery would be made that night. Huggins was closely observed when he reported for duty that evening. Just prior to midnight he received a visitor in the lobby. The female visitor handed Huggins a White Castle bag. He then accompanied her outside and returned five minutes later carrying a clear plastic bag containing several White Castle bags. When he reentered the facility, a fellow officer detained Huggins and patted him down. A search of the White Castle bags revealed seven individually packaged bags of tobacco and three clear-wrapped packages containing what appeared to be marijuana. Later tests revealed that the packages contained 16.61 grams of marijuana.

Huggins was arrested and charged with two counts of trafficking with an inmate, one as a Class C felony and one as a Class A misdemeanor, two counts of attempted trafficking

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<sup>1</sup> See IC 35-44-3-9; IC 35-41-5-1.

with an inmate, one as a Class C felony and one as a Class A misdemeanor, one count of dealing in marijuana as a Class A misdemeanor, and one count of possession of marijuana as a Class A misdemeanor.

On December 15, 2005, the parties reached a plea agreement in which Huggins pled guilty to attempted trafficking with an inmate as a Class C felony, and the remaining charges were dismissed. The trial court sentenced Huggins to the advisory sentence of four years, with two years to be served in work release through Community Corrections and two years suspended. Huggins now appeals.

### **DISCUSSION AND DECISION**

Huggins, while stating his issue as whether his sentence is inappropriate in light of his character and the nature of his offense, focuses his argument primarily on the trial court's finding of aggravating and mitigating circumstances. Specifically, Huggins contends that the trial court should have given mitigating weight to his lack of prior criminal history and to his guilty plea, independent of his remorse. Pursuant to recent amendments of the sentencing statutes, a trial court may impose any sentence authorized by statute and permissible under the Constitution of the State of Indiana "regardless of the presence or absence of aggravating circumstances or mitigating circumstances." *Id.* at 146 (citing IC 35-38-1-7.1(d)). However, IC 35-38-1-3(3) still requires that, "the court . . . make a record of the hearing, including . . . *if* the court finds aggravating and mitigating circumstances, a statement of the court's reasons for selecting the sentence that it imposes." (Emphasis added).

Huggins argues his sentence is inappropriate in light of the nature of his offenses and his character. On review, an otherwise statutorily authorized sentence may be revised if it is

found to be inappropriate in light of the nature of the offense and the character of the offender. Ind. Appellate Rule 7(B). “But we must exercise great restraint in reviewing and revising sentences and recognize the special expertise of the trial bench in making sentencing decisions.” *Alexander v. State*, 837 N.E.2d 552, 557 (Ind. Ct. App. 2005).

Huggins was a corrections officer attempting to smuggle controlled substances to inmates inside the facility in which he was employed. The trial court best characterized the nature of the offense as “a really heinous violation of the position he was in.” *Tr.* at 34. The offense carried an advisory sentence of four years and a maximum sentence of eight years. Huggins received the advisory sentence of four years, with two years to be served in work release through Community Corrections and two years suspended. We do not agree with Huggins that the nature of the offense or his character warrants a sentencing revision. As such, the trial court’s sentence was not inappropriate.

Affirmed.

SHARPNACK, J., and MATHIAS, J., concur.